

SEP 04 2014

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature] DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Plaintiffs/Garnishors;

 \mathbf{y}_i

Bank of America Corporation, N.A.

and

Edward D. Jones & Co, L.P.

Defendants/Garnishees

SA14CA0784DAE

Case No.

(Decorative flourish consisting of multiple loops)

APPLICATION FOR WRIT OF GARNISHMENT

TO THE HONORABLE COURT:

NOW COMES Plaintiffs Preben Jensen and Mary Jo Jensen “the Jensens”, by and through their undersigned attorneys, and files this Application for Writ of Garnishment pursuant to Fed. R. Civ. P. 64 and 69, Texas Rule of Civil Procedure 658, and Texas Civil Practices & Remedies Code 63, and states in support thereof:

SUMMARY OF ACTION

1. This is a garnishment action to enforce a judgment entered by this Court against Defendant Judy Rollinger in Case No. 5:13-cv-01095-DAE (“the underlying action”). Rollinger is known to have assets in the possession of Garnishees Edward D. Jones & Co., L.P. and Bank of America Corporation, N.A.

PARTIES

2. Plaintiffs in Garnishment Preben Jensen and Mary Jo Jensen are natural persons, Husband and Wife, residing in the State of Colorado.
3. Garnishee Bank of America, N.A., is a national banking association formed under the laws of the United States having its headquarters in Charlotte, North Carolina.
4. Garnishee Edward D. Jones & Co., L.P. is a Missouri Limited Partnership having its headquarters in St. Louis, Missouri.
5. Judgment Debtor Judy Rollinger is a citizen of Texas who currently resides in the Republic of Panama. This Honorable Court granted judgment against Judy Rollinger in Case No. 5:13-cv-01095-DAE, *Jensen et al. v. Rollinger et al.* in the amount of \$96,000, plus costs and pre- and post-judgment interest.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because there is complete diversity between the parties and the amount in controversy exceeds \$75,000, excluding interest and costs.
7. Venue is proper in this Court under 28 U.S.C. 1391(b)(2) because a substantial part of the property that is the subject of this garnishment action, is held by the Garnishees in the Western District of Texas.

ISSUANCE OF WRIT OF GARNISHMENT

8. This is a request for a writ of garnishment against Garnishees Edward D. Jones & Co., L.P. and Bank of America Corporation, N.A., to enforce this Honorable Court's judgment rendered against Defendant Judy Rollinger.
9. On August 4, 2014, the Clerk of this Honorable Court entered judgment against


Defendant Judy Rollinger in the amount of \$96,000, plus costs and pre- and post-judgment interest. Exhibit 1.

10. Fed. R. Civ. P. 62(a) provides for an automatic stay of execution on a judgment until 14 days have passed from the entry of judgment. More than 14 days have passed since entry of judgment on August 4, 2014, and execution on the judgment against Defendant Judy Rollinger is now ripe.
11. Said judgment is valid and subsisting and remains unsatisfied. (*See* Exhibit 2, Affidavit of Preben Jensen and Mary Jensen).
12. Within the Jensens' knowledge, Defendant Judy Rollinger does not possess property in Texas subject to execution sufficient to satisfy said judgment. *Id.*
13. This garnishment is not sought to injure or harass either the Judgment Debtors or the Garnishees.
14. The Jensens have reason to believe, and do believe, that Garnishees Edward D. Jones & Co., L.P. and Bank of America Corporation, N.A. are indebted to Defendant Judy Rollinger and/or are in possession of Defendant's tangible or intangible property. This belief is based on information provided in the Garnishee's Answers filed in the underlying case. *See* 5:13-cv-01095-DAE, ECF # 5 for Edward D. Jones & Co., L.P. (Exhibit 3); ECF # 6 for Bank of America Corporation, N.A. (Exhibit 4).
15. Pursuant to Fed. R. Civ. P. 64, the remedies of the state of Texas are available for the seizure of property for the purpose of securing satisfaction of the Jensens' judgment. The applicable statutes and rules for issuance of a writ of garnishment under Texas law are set forth in Texas Civil Practices & Remedies Code §§ 63.001, *et seq.*
16. The Jensens are entitled to the issuance of a writ of garnishment on the grounds stated

above and in the attached affidavit.

WHEREFORE, Plaintiffs Preben Jensen and Mary Jo Jensen respectfully request that a Writ of Garnishment issue against Garnishees Edward D. Jones & Co., L.P. and Bank of America Corporation, N.A., and that the Jensens be granted judgment against Garnishees to satisfy the judgments against Plaintiff Judy Rollinger, the Judgment Debtor, as provided by law, together with such other and further relief to which the Jensens may be justly entitled.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Wade B. Shelton', with a long horizontal line extending to the right.

Wade B. Shelton
Shelton & Valadez PC
600 Navarro, ste. 500
San Antonio, TX 78205-1860
210-349-0515 (telephone)
210-349-3666 (facsimile)
wshelton@shelton-valadez.com
SBOT 18211800
Attorneys for Plaintiffs